



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-823]

Certain Kinesiotherapy Devices and Components Thereof

(Advisory Opinion Proceeding)

Institution of an Advisory Opinion Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute an advisory opinion proceeding in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Michael Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 10, 2012, based on a complaint filed by Standard Innovation Corporation of Ottawa, ON, Canada and Standard Innovation (US) Corp. of Wilmington, Delaware (collectively, “Standard Innovation”). 77 *FR* 1504-05 (Jan. 10, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), by reason of infringement of certain claims of United States Patent Nos. 7,931,605 (“the ’605 patent”) and D605,779 (“the ’779 patent”). The complaint named twenty-one business entities as respondents, including Lelo Inc. and Leloi AB (collectively, “Lelo”). On July 25, 2012, the Commission determined not to review an ID (Order No. 25) granting complainants’ motion to withdraw the ’779 patent from the investigation.

On June 17, 2013, the Commission issued its final determination finding that Standard Innovation had proven a violation of section 337 based on the infringement of the asserted claims of the ’605 patent. Based on evidence of a pattern of violation and difficulty ascertaining the source of the infringing products, the Commission issued a general exclusion order against certain kinesiotherapy devices that infringe the asserted claims of the ’605 patent. The Commission also issued cease and desist orders against certain respondents, including Lelo Inc.

On September 30, 2013, Lelo filed a request with the Commission asking for institution of an advisory opinion proceeding as to whether their new kinesiotherapy devices are covered by the general exclusion order or the cease and desist order issued against Lelo Inc. Standard Innovation filed a response on November 12, 2013, opposing Lelo’s request.

The Commission has determined that Lelo's request complies with the requirements for institution of an advisory opinion proceeding under Commission Rule 210.79. Accordingly, the Commission has determined to institute an advisory opinion proceeding and refer Lelo's request to the Office of Unfair Import Investigations ("OUII"). The parties will furnish OUII with information as requested, and OUII shall investigate and issue a report to the Commission within ninety (90) days of the date of publication of this notice in the *Federal Register*. The Commission will issue an advisory opinion by June 30, 2014, based on the written report of OUII. The following entities are named as parties to the proceeding: (1) complainant Standard Innovation and (2) respondent Lelo.

The authority for the Commission's determination is contained in sections 335 and 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1335, 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: February 7, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

